

New Jersey Department of Transportation
CORRECTIVE ACTION NOTICE

QUALITY MANAGEMENT SERVICES

Manager: Brian Strizki

Telephone: (609) 530-6363

CAN No. CAN059

Approved: Brian Strizki

Date: June 11, 2004

Subject: Steel Price Adjustment

Bureau(s) Affected: All Construction Inspection Consultants
In-House Design/QA Review Units
Division of Project Management
Division of Construction Services & Materials

Description of Issue(s):

The recent escalation of steel prices in the steel industry has caused concern and created uncertainty among contractors, steel fabricators and industry suppliers. Significant price increases have been reported for structural steel, reinforcing steel, sheet piling and other miscellaneous steel products. The rise of steel prices began in the fall of 2003 and has continued into the beginning of 2004. A steel price adjustment on existing contracts may be considered if a contractor can prove that his/her company has had to absorb a significant adverse financial impact based on steel price escalations after bid. The adverse financial impact must meet the test of the contractor being able to rescind the contract due to the increase steel costs.

The Department does not anticipate that this trend of escalating steel prices will continue for an extended period of time. Therefore, a permanent change to the "Standard Specifications for Road and Bridge Construction" is not necessary.

Corrective Action Plan:

The Department will evaluate actual significant steel price increases absorbed by the contractor to an existing contract via the Claims Procedure on a case-by-case basis for projects bid prior to March 12, 2004. Steel price increases must have occurred between the date of bid opening and the date of material purchase/invoice. In which case, either the supplier refused to honor his original price quote or refused to supply the material resulting in increased steel costs of eligible pay items in the contract. Only pay items related to structural steel, steel reinforcement, steel piling, guide rail, steel conduit and other miscellaneous steel bid items will be evaluated for the price increases adjustment. Items such as precast culverts that contain steel reinforcement are not eligible for consideration.

As part of a claim submission to the Department, the contractor shall include for review all supporting data necessary to support the increase in price and the impact on the company. This shall include but not be limited to:

- Invoices from fabricator containing: quantities, dates, price per unit weight, payment amounts, proof of payment and all other relevant correspondence.
- Invoices from steel mills containing: quantities, dates, price per unit weight, payment amounts, proof of payment and all other relevant correspondence.
- Original contract material price quotes for all eligible pay items for steel price adjustment. The quote must be certified and clearly provide a breakdown of all costs.
- Proof that the contractor proceeded with due diligence in holding the supplier to the original quoted price and has made all appropriate legal demands to the supplier to honor his original contract.
- Proof of the financial consequences of the price increase on the contractor's total cost and anticipated profit for the contract as well as the effect of the price increase on the company's total financial condition. **Note: All documentation will be subject to financial audit by the Department and must demonstrate facts, which would justify rescission of the contract by the contractor.**

To ensure its implementation, the responsibility of each unit shall be as follows:

Bureau of Quality Management Services

- QMS shall post this CAN on the website and shall rescind when no longer needed.

Quality Assurance Review Unit/In-house Production Team

- This Unit/Team shall be responsible for monitoring trends in steel prices and recommend changes to the contract specifications if necessary.

Division of Construction Services and Materials – Resident Engineers

- Resident Engineers will be responsible for reviewing the initial claim for completeness and shall either reject the claim for not meeting the criteria listed in this CAN or forwarding the claim to the Bureau of Construction Engineering for processing.

Bureau of Construction Engineering

- The Bureau of Construction Engineering shall notify all Resident Engineers of this CAN by circulating it to the appropriate staff. The Bureau of Construction Engineering shall process all steel price adjustment claims related to this CAN.

Implementation: *Effective Immediately*